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In re Application of :
Jyringi : DECISION ON PETITION.
Application No. 10/060,126 :
Filed: January 29, 2002 :
Atty. Dkt. No.: 13810-002002 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 25, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned June 15, 2005 for failure to timely submit a proper reply to the final Office action mailed March 14, 2005. The final Office action set a three month shortened statutory period of time for reply. Replies were submitted April 7, 2005 and May 18, 2005. These replies failed to place the application in condition for allowance, as indicated in the Advisory Actions mailed April 28, 2005 and January 31, 2006. A reply was submitted February 17, 2006, after the statutory period of time for reply to the final Office action had expired. Notice of Abandonment was mailed July 14, 2008.

Petitioner argues that replies to the final Office action were filed April 4, 2005 and May 18, 2005. Petitioner also indicates that a reply was filed February 17, 2006 in response to the Advisory Action mailed January 31, 2006.

Petitioner is advised that the maximum period of time allowed by statute to submit a reply placing the instant application in condition for allowance expired on September 14, 2005. As no reply which placed the application in condition for allowance, the application became abandoned June 15, 2005, the day after the date that is three months after the final Office action was mailed,

applicant having filed no petition for extension of time and no reply which placed the application in condition for allowance.

Thus, while the Office can acknowledge receipt of the reply filed February 17, 2006, the reply was submitted after the maximum period of time for reply allowed by law.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). See, enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

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P.O. Box 1450
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By facsimile:

(571) 273-8300

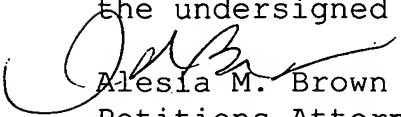
By hand delivery:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The correspondence address indicated on the instant petition differs from that contained in the record. If petitioner desires to receive future correspondence concerning this application, the appropriate change of correspondence address/revocation of

power of attorney documentation should be promptly submitted. All future correspondence will be directed to the correspondence address of record until such time as appropriate instruction is submitted to the contrary. See, enclosed.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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Office of Petitions

Enclosures

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